IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.886 OF 2006

In

SUIT NO.761 OF 2006

Pushpa Navin Delwadia : Plaintiff

V/s.

Ranjana Dharmaraj Chinchavle & Ors. : Defendants

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Mr.K.V.Tembe for the plaintiff.

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CORAM : S.A.BOBDE, J.

DATE : FEBRUARY 7, 2007.

P.C.

1. This Notice of Motion is taken out by the purchaser who has filed a suit for specific performance of a contract. The purchaser claims to be in possession of the suit property and also claims that he has paid the entire purchase price. There is no affidavit-in-reply to the Notice of Motion, even though the defendants are served and appeared through an Advocate before this Court on 4.4.2006.

2. The suit flat is flat no.C-1/404, 4th floor, building no.C-1, P & T Staff Mitra Mandal Co-operative Housing

Society Ltd., Tarun Bharat, Chakala, Andheri (East), Mumbai. The plaintiff's case is that she purchased it from the deceased Dharmaraj Dhondiram Chinchavle. The defendant no.1 is the widow of the deceased and the defendant nos.2, 3 and 4 are the children. He appears to be in possession of the flat since 1973. After the demise of Dharmaraj Dhondiram Chinchavle, it appears that the defendants sought to evict the plaintiff.

3. Clearly, in such a case, the plaintiff who has paid the consideration of the flat and is in possession since 1993 cannot be allowed to be evicted or his possession be allowed to be disturbed in any manner, except in accordance with law. Hence, there shall be interim relief in terms of prayer clause (a), pending the decision of the suit.

S.A. BOBDE, J.